SUPREME COURT OF SEYCHELLES

<u>Reportable</u>
CS113/2020

In the matter between:

SEYCHELLES COMMERCIAL BANK **Represented by its Managing Director** **Annie Vidot** *(rep. by Charles Lucas)*	**Plaintiff**

and

JEAN LUKE PAYET *(rep. by Serge Rouillon)*	**1st Defendant**
MARIA ELIZABETH *(rep. by Frank Elizabeth)*	**2nd Defendant**

Neutral Citation:	*Seychelles Commercial Bank v Jean-Luke Payet & Anor* (CS113/2020) (21st July 2026)
Before:	Burhan J
Summary	Recovery of an unauthorised overdraft on a partnership bank account. Plea in limine litis alleging no cause of action. Objections to the Acknowledgement of Debt under the Stamp Duty Act. Alleged duress by the 1st Defendant. Alleged novation or release of the 2nd Defendant. Partnership liability under Article 55(1) of the Commercial Code.
Heard:	23rd September 2023; 04th July 2025; 21st October 2025; 24th October 2025 and written submissions
Delivered:	21 July 2026

ORDER

This Court is satisfied that the Plaintiff has established its claim on a balance of probabilities, this Court gives judgment in favour of the Plaintiff and against the 1st and 2nd Defendants jointly and severally and grants the reliefs as prayed for in the plaint as follows:

a) that both the 1st and 2nd Defendants are jointly and severally liable to pay the sum of SCR 322,850.66 to the Plaintiff together with interest at the rate of 10% accruing from the date the debt was incurred i.e. 05 September 2017 until the date of payment less the sum paid back by the 1st Defendant i.e. SCR 55,000.00.

b) that the 1st and 2nd Defendants shall be liable to pay the Plaintiff's costs.

JUDGMENT

BURHAN J

[1] The Plaintiff Seychelles Commercial Bank ("the Plaintiff"), brought this action against the 1st Defendant Jean-Luke Payet and the 2nd Defendant Maria Elizabeth by way of a plaint titled "2nd Amended Plaint" (hereinafter the plaint) dated 02 October 2024. The reliefs sought as set out in the prayers to the plaint are as follows:

"Whereof the Plaintiff prayers this Honourable Court to enter judgment in its favour, jointly and severally against the 1st and 2nd Defendants;

Or in the alternative, solely against the 1st Defendant in the sum of SCR 511,769.66 plus interests at the commercial rate of 10 per annum (refer amendment at page 5 of the proceedings dated 4 July, 2025*) from the 31st day of August 2020 and continuing accruals of interest plus costs of this suit."*

[2] The plaint identifies the Plaintiff as a bank incorporated in Seychelles and engaged in the provision of banking services to the public. It avers that the 1st and 2nd Defendants were joint partners in the business known as Destination (Seychelles) A Tout Prix, registered under the Business Names Act 1972. The plaint further avers that the partnership carried on business as tour agents and sellers of airfares and packages.

[3] It is pleaded that the partnership current account bearing number 0178690337 was in unauthorised debit to the Plaintiff bank in a sum of SCR337, 910. 48 as at 31 January 2018. The Plaintiff further pleads that on 14 May 2018, the 1st Defendant assumed personal liability for the debt by an Acknowledgement of Debt Agreement dated May 2018 in the sum of SCR343,613.30, with interest at 22% per annum, payable by monthly instalments of SCR5,000 from 30 May 2018 until full settlement.

[4] It is further averred that the 1st Defendant paid only 11 instalments, totalling SCR55,000, and thereafter failed to pay any further sums. Despite demands made to both Defendants, they failed to settle the debt resulting in the Plaintiff filing this action for recovery of the said debt.

[5] The 1st Defendant relied on the amended defence filed on the 19 November 2024. He admits paragraphs 1, 2 and 3 of the Amended Plaint and admits that the account may have been in debit, but the sum and interest claimed are exaggerated. The 1st Defendant further states that the partnership ceased in January 2018 but avers that the Plaintiff focused recovery on him rather than on the 2nd Defendant, whom he says was responsible for running up the debt. The 1st Defendant in his defence avers that that the unauthorised deductions resulted from the 2nd Defendant's activities for her private ventures. He denies liability and seeks dismissal of the claim against him, alternatively an order that any sums due be settled by the 2nd Defendant as well.

[6] The 1st Defendant also in defence states he was made to sign the Acknowledgement of Debt Agreement under duress. On 27 March 2018, the Plaintiff's legal team attended his residence on La Digue and though he had expressed unwillingness to sign a document, he was informed that the bank would take legal action and that the bank employee who authorised the cheques could get into trouble. The 1st Defendant pleads that he signed under immense stress, duress, and a blank state of mind because Ms Cindy Ernesta, the La Digue Branch Manager, could face termination of employment. He further avers that the document was not completed or dated when signed, that it was later dated, and therefore it had been tampered with.

[7] The 1st Defendant further objects to the Acknowledgement of Debt Agreement on the basis that it was not duly stamped or registered and was therefore inadmissible under the Stamp Duty Act.

[8] The 2nd Defendant in her amended defence filed on 29 July 2025, raised a plea *in limine litis* that the Amended Plaint discloses no cause of action against her and ought to be struck out with costs. On the merits, the 2nd Defendant denies liability and avers that the 1st Defendant was the sole person operating the account. She further avers that the 1st

Defendant used the unauthorised overdraft on himself, living a lavish and luxurious lifestyle. The 2nd Defendant further relies on the fact that the Acknowledgement of Debt Agreement was signed by the 1st Defendant and pleads that he in doing so admitted personal liability for the debt, started paying under the agreement, and then stopped making monthly payments. She prays that the Plaintiff's action against her be dismissed with costs.

[9] This Court will at the very outset deal with the Preliminary objection raised by the 2nd Defendant. The 2nd Defendant's plea *in limine litis* is based on section 71(d) of the Seychelles Code of Civil Procedure, which provides:

> *The plaint must contain the following particulars:*
> *(d) a plain and concise statement of the circumstances constituting the cause of action and where and when it arose and of the material facts which are necessary to sustain the action.*

[10] The applicable provision governing the striking out of pleadings is section 92 of the Seychelles Code of Civil Procedure, which provides:

> *The court may order any pleading to be struck out, on the ground that it discloses no reasonable cause of action or answer, and in such case, or in case of the action or defence being shown by the pleading to be frivolous or vexatious, the court may order the action to be stayed or dismissed, or may give judgment, on such terms as may be just.*

[11] When one considers the pleadings before this Court of the 2nd Defendant, she admits she was a joint partner in the named business Destination (Seychelles) A Tout Prix and that the said partnership business held a bank account with the Plaintiff. Both Defendants were authorised single and independent signatories to that account.

[12] It is clear from the evidence before Court and it is pleaded that the partnership current account was in unauthorised debit to the Plaintiff bank in a sum of SCR337, 910.48 as at 31 January 2018. The bank statements reflecting these transactions were admitted as Exhibit P2 and the updated Bank statement P9 also includes the said amount. Claims through letters dated 12 January 2018, and 1 February 2018 were sent in the names of both Defendants and the partnership to the partnership address given to the bank and were

admitted as Exhibits P3 and P4 respectively. This Court is satisfied that at the time the debt was incurred both the 1st and 2nd Defendants were admittedly registered partners of the said business. It is to be borne in mind that even the Acknowledgment of Debt Agreement P8 was drawn out in the name of the partnership and referred to the partnership account number and not drawn out in the personal name or personal account of the 1st Defendant. Based on the pleadings itself and all the aforementioned documents, it is clear that it was this partnership business Destination (Seychelles) A Tout Prix that had incurred an unauthorised overdraft, and that judgment is sought jointly and severally against both Defendants who were admittedly partners in the said business.

[13] Therefore, is clear that on the pleaded facts, a cause of action exits against both the 1st and 2nd Defendants as admittedly they were partners in the partnership business Destination (Seychelles) A Tout Prix which account incurred the debt. The defence of the 2nd Defendant that she did not operate the account and her reliance on the fact that it was the 1st Defendant who incurred and signed the Acknowledgement of Debt Agreement, are matters to be decided on the merits of the case and not at this stage. The plea *in limine* litis fails and is dismissed.

[14] It would be pertinent at this stage to also refer to the other objection taken in respect of the admissibility of the Acknowledgement of Debt Agreement. During the hearing on 22 September 2023, objection was taken under section 25 of the Stamp Duty Act, on the footing that an instrument chargeable with duty and not duly stamped shall not be admitted in evidence in civil proceedings.

[15] The legal material before this Court states that section 25(1) of the Stamp Duty Act restricts admissibility of an instrument chargeable with duty which is not duly stamped. Section 18 permits stamping out of time upon payment of unpaid duty and validating duty.

[16] Therefore, though the Plaintiff initially produced an Acknowledgment of Debt Agreement P7 which was not stamped to be admitted, the Plaintiff thereafter during the trial, later tendered a duly stamped and registered version of the Acknowledgement of Debt Agreement P8. Hence there is no necessity for this Court to revisit this issue as any defect

has now been cured. This Court is not precluded from admitting Exhibit P8. Its weight and evidential value remain matters for determination.

Background facts as admitted by parties

[17] When one peruses the pleadings, evidence led and submissions tendered it is clear to this Court that the following fact have been admitted by the parties.

a) The Plaintiff is a bank incorporated in Seychelles and provides banking services to the public.

b) The 1st and 2nd Defendants were joint partners in Destination (Seychelles) A Tout Prix. The business was registered under the Registration of Business Names Act on 12 March 2015, with 1st Defendant- Jean- Luke Payet and the 2nd defendant Ms. Maria Elizabeth as registered partners.

c) The partnership carried on the business of tour agents and sale of airfares and packages to members of the public.

d) The partnership held current account No. 0178690337 with the Plaintiff. Both Defendants were authorised single and independent signatories to that account.

e) The account was opened in 2017, and Ms Cindy Ernesta confirmed that both directors were authorised to sign cheques singly.

f) The 1st Defendant admits that the account may have been in debit. The 2nd Defendant acknowledged in her evidence that she became aware of the unauthorised debit balance of SCR337,910.48 as at 31 January 2018 after being contacted by the bank.

g) The 1st Defendant paid SCR55,000 toward settlement. The Plaintiff's evidence was that those payments consisted of 11 monthly payments of SCR5,000 from June 2018 to June 2019, after which no further payments were made.

h) The partnership ceased operation in 2018, according to the Plaintiff's pleading.

The Plaintiff's case

[18] The matter proceeded to trial on 22nd September 2023 and the Plaintiff called Ms Cindy Ernesta as its first witness. It is to be noted that on 04 July 2025, before evidence continued, the Court permitted the Plaintiff to amend the "2nd Amended Plaint" by reducing the claimed interest rate from 22% to 10%, the defence accepted the amendment. In this case

it is clear that the Plaintiff claims commercial interest at 10%. The evidence of witness Ms Cindy Ernesta clarifies that she was an employee of the Plaintiff bank and it was she who had opened the current account of the partnership referred to herein and that the signatories were the 1st Defendant and 2nd Defendant. The original account application form was produced and marked as Exhibit P1.

[19] According to her evidence, in late August 2017, two cheques payable to UAE Exchange signed by 1st Defendant, were presented against insufficient funds for approximately SCR350,000. She authorised payment on the basis of 1st Defendant's verbal assurance that he would make a deposit that same day, but no deposit was forthcoming. The bank statement reflecting these transactions was admitted as Exhibit P2. Claims to payback the debt were sent through letters dated 12 January 2018 and 1 February 2018 in the names of both Defendants and the partnership to the partnership address given to the bank and were admitted as Exhibits P3 and P4. The subsequent Acknowledgement of Debt Agreement drawn out in the name of the partnership was produced as P7 and the duly stamped and registered Acknowledgment of Debt Agreement was exhibited as P8. After paying 11 instalments at SCR 5000 the 1st Defendant had defaulted in his payment.

[20] Under cross examination, witness admitted that that the 22% penalty interest was not specified in the original account opening form and appeared for the first time in the Acknowledgement of Debt Agreement. She also admitted honouring the cheques despite insufficient funds was not normal banking practice. When it was put to her that the bank was at fault, she answered, "I won't say the bank. I will say, I did the mistake."

[21] The next witness Ms Gracey Sibyl Arrisol, an officer in the Plaintiff's legal department, gave evidence concerning the debt recovery process. She testified that the file was referred to her department for debt recovery and that the department met with the directors. Witness Gracey Arrisol testified that 2nd Defendant refused to sign the acknowledgement as she had not written the cheques. She also testified that 1st Defendant came to the SCB branch at Kingsgate House, Victoria, voluntarily and agreed to a payment plan.

[22] Witness identified the Acknowledgement of Debt Agreement as a bank document completed with the 1st Defendant. Witness Gracey Arrisol further testified that on 14 May 2018, the 1st Defendant read the agreement, proposed a payment plan of SCR5000 per month after gaining employment, and signed Exhibit P8. She affirmed that the document was dated in his presence and that 1st Defendant, Suzette Ernesta as witness, and herself signed on the same day. Witness further confirmed under oath that the 1st Defendant made 11 payments totalling SCR55,000 between June 2018 and June 2019 before ceasing payment. An updated bank statement in respect of the partnership account was produced as P9. Witness further admitted that the bank stopped applying the 22% penal interest as of 26 December 2023, in accordance with regulatory rules for accounts classified as "loss." Witness stated that the outstanding balance due at present was SCR518,785.59.

[23] Under cross-examination, Ms Gracey Arrisol denied that Exhibit P8 was signed undated on La Digue. She also denied that 1st Defendant had been told that the bank employee Ms Cindy Ernesta would face termination if he did not sign. She further admitted that the bank's claim was based on an Acknowledgement of Debt Agreement signed only by 1st Defendant. She maintained, however, that the bank sued both partners because both were signatories to the business account. Thereafter, the Plaintiff closed its case.

The 1st Defendant's case

[24] In evidence, the 1st Defendant admitted that he was a partner in Destination Seychelles with the 2nd Defendant until he resigned in January 2018. His resignation letter was tendered as Exhibit 1D1. He stated he resigned because of financial issues and alleged that the partnership had loaned approximately SCR400,000 to 2nd Defendant for her private ventures, of which only approximately SCR60,000 had been repaid indirectly to suppliers. The 1st Defendant maintained that when bank officers visited him on La Digue on 27 March 2018 with a pre-prepared Acknowledgement of Debt Agreement, he was initially unwilling to sign. He testified that he signed under duress after being told that Ms Cindy Ernesta would be fired and held personally liable for having authorised the unfunded cheques.

[25] The 1st Defendant maintained that the document was undated when he signed it and denied that the document was signed and dated at Victoria on 14 May 2018. He further stated he had paid instalments totalling SCR 55,000 but stopped as he was unemployed. He also stated that the debt belonged to the partnership and should be paid by both partners, expressing willingness to pay his share.

[26] Under cross-examination by counsel for the 2nd Defendant, the 1st Defendant admitted that he was the "main man" running the business and had sole authority to sign cheques. He further admitted that Ms Cindy Ernesta regularly honoured partnership cheques at his request despite insufficient funds, on his promise that he would deposit money later. He admitted and acknowledged that Ms Cindy Ernesta went out of her way to help him.

[27] The 1st Defendant described a ploy in which he wrote two large unfunded cheques to a foreign exchange bureau to purchase currency, which was then sold for cash and deposited back into the partnership account to make it appear solvent at the month-end. He conceded that he signed the Acknowledgement of Debt Agreement because "we failed the promise of paying back to the bank" and because, if he did not sign, Ms. Ernesta "would have gotten fired."

[28] Under cross examination the 1st Defendant denied living a lavish lifestyle on company funds. In re-examination he maintained that the debt originated from 2nd Defendant's failure to repay loans. He also stated that although the account may have been in debit, the Plaintiff's figures and interest were exaggerated. He maintained that that the 2nd Defendant was responsible for incurring the debt and he also stated that the Plaintiff wrongly focused recovery on him.

The 2nd Defendant's case

[29] The 2nd Defendant in her evidence admitted that she was a partner in Destination Seychelles A Tout Prix, which was registered under the Business Names Act in March 2015 and later incorporated in April 2016. She stated that although she was a partner, the 1st Defendant operated the business from Victoria House, Mahé, while she was based in La Digue. She

accepted that both partners held a joint current account with the Plaintiff and that either partner was an authorised signatory.

[30] The 2nd Defendant's defence is that the 1st Defendant was the sole person operating the account and used the unauthorised overdraft on himself. She relies on the fact that as the 1st Defendant was the only signatory in the Acknowledgement of Debt Agreement the 1st Defendant is personally liable.

[31] The 2nd Defendant acknowledged becoming aware of the unauthorised debit balance of SCR337,910.48 as at 31 January 2018, but stated that she was unaware of the growing debt until the bank contacted her. The 2nd Defendant testified that she was the founder of the business and had funded it with approximately SCR200,000 in gradual payments. She testified that she received no salary while the 1st Defendant drew a salary of SCR32,000 and exclusively managed the bank account and cash payments for rent and staff.

[32] After receiving letters from the bank dated 12 January 2018 and 1 February 2018, she instructed her lawyers to request financial records from the bank. The letter of 29 March 2018 was admitted as Exhibit 2D1.

[33] The 2nd Defendant admitted she was aware of the 1st Defendant's resignation letter, Exhibit 1D1, dated 22 January 2018, in which 1st Defendant stated that he would not be held liable for transactions in the name of the company. She stated the resignation coincided with complaints from clients that 1st Defendant had issued fake air tickets and that clients were stranded at the airport.

[34] The 2nd Defendant produced several documents to support her contention that 1st Defendant's actions caused the company's downfall. The 2nd Defendant also produced documents indicating payments made from her personal funds to cover clients travel expenses as the 1st Defendant failed to make payment of same. She also produced bounced cheques signed by the 1st Defendant. She denied taking loans from the partnership as alleged by the 1st Defendant and stated she received no financial benefit from it. Under the management of the 1st Defendant she stated the business only accumulated debts.

[35] Under cross examination she denied she owed the partnership SCR 331,000. She denied withdrawals involving SCR42,000 and SCR 45,000 were withdrawn from the business account for her personal use and stated the said money related to a client whose tickets the 1st Defendant had failed to pay for and she had used the said funds to make payment to Masons Travel.

Analysis of Evidence and Law and Findings

[36] The Plaintiff's case is that the partnership account fell into unauthorised debit during the operation of the partnership account and that both Defendants are liable as partners and signatories.

[37] This Court has already held that the plea in limine litis fails.

[38] It is admitted by parties that the partnership account existed, that both Defendants were authorised signatories, and that either could sign singly. Article 55(1) of the Commercial Code states:

> *In a commercial partnership the partners shall be jointly and severally liable for the partnership debts.*

[39] Article 56 of the Commercial Code further provides that:

> *A partner shall not bind the other partners unless such partners have empowered him to do so. A third party, however, who has treated with a partner who has acted without authority, shall not be penalised if it was reasonable, in the special circumstances of a case, for such a party to assume that the partner has acted with the authority of the other partners. In this respect article 2009 of the Civil Code <u>dealing with the ostensible authority of the agent shall have application mutatis mutandis.</u>* (Emphasis added)

[40] Article 2009 of the Civil Code of Seychelles Act provides:

> *(1) A third party who has treated with an agent whose authority has been withdrawn is not penalised if it was reasonable in the circumstances to assume that the agent was acting with the authority of the principal.*

(2) In such a case the court may make such award as it considers just.

[41] When one considers the evidence in this case and the documents produced, the Plaintiff bank dealt with a business account in which both partners had given a single-signatory mandate. The cheques which caused the principal overdraft were signed by 1st Defendant, a person authorised in the mandate. Accordingly in accordance with Article 55(1) of the Commercial Code, the 2nd Defendant remains liable to the Plaintiff for the partnership debt, without prejudice to any claim she may have against the 1st Defendant inter se.

[42] It is the considered view of this Court that the internal dispute between the 1st Defendant and 2nd Defendant as to who caused the business failure is a real issue. The 1st Defendant blames the 2nd Defendant's alleged private ventures loaned and states approximately SCR400,000 was taken by the 2nd Defendant for her private ventures, of which only approximately SCR60,000 had been repaid indirectly to suppliers. The 2nd Defendant blames the 1st Defendant's mismanagement of the sole operation of the business by issuing bounced cheques, and issuing fake tickets and further alleges that the 1st Defendant used the unauthorised overdraft on himself, living a lavish and luxurious lifestyle.

[43] It is the considered view of this Court that whatever the internal dispute may be this is not a defence to the Plaintiff's claim as creditor of the partnership. The Plaintiff's claim is founded upon the partnership account and the unauthorised debit arising from its operation. Article 55(1) of the Commercial Code clearly makes partners jointly and severally liable for partnership debts.

[44] Having found that the account was opened as a partnership account and that both Defendants were authorised signatories, and that the Exhibit P8 was acknowledged in respect of the said partnership account, it is clear that the provisions of Article 55(1) is applicable and therefore binding on both partners. Article 56 of the Commercial Code as set out above protects a third party who has dealt with a partner acting without authority where it was reasonable, in the special circumstances, to assume that the partner acted with the authority of the other partners. This section expressly Article 2009 of the Civil Code, applies mutatis mutandi, thereby importing the doctrine of ostensible authority into partnership law. In this instant case the account was opened in the partnership's name; both

Defendants signed the account-opening documents; and both were authorised to operate the account singly. In these circumstances, and in the absence of proof that the Plaintiff had notice of any withdrawal or restriction of the 1st Defendant's authority, the Plaintiff was entitled to make a claim from both Defendants in respect of liabilities incurred to the Bank by the partnership, irrespective of the differences arising between the partners as set out above.

[45] The Plaintiff bank cannot be faulted for considering and acting on the instructions of the 1st Defendant who was having authority to operate the account on behalf of the partnership and it was reasonable, considering the circumstances of this case, for the Plaintiff to assume that the partner has acted with the authority of the other partners.

[46] Any complaint by the 2nd Defendant that the 1st Defendant misused the account or applied funds for his own benefit, may be addressed in a separate claim between the partners inter se, but it does not release the partners from liability to the Plaintiff bank as an innocent third-party creditor, acting on the apparent authority created by the partnership mandate. At the same time, this Court accepts that Ms Cindy Ernesta departed from normal banking practice by honouring cheques despite insufficient funds. She frankly stated, "I did the mistake." That evidence explains how the unauthorised debit arose, but it does not by itself extinguish the debt owed by the partnership to the Plaintiff bank.

[47] The next defence raised by the 1st Defendant is that he signed the P8 the Acknowledgement of Debt Agreement under duress. It would be pertinent at this stage to refer to Article 1112 of the Civil Code of Seychelles Act, 2020 which provides that:

(1) Exercising duress against a contracting party is a ground of nullity.

(2) If the duress was exercised by a person other than the person for whose benefit the contract is concluded, the duress must be the main reason why the victim of the duress entered into the contract.

Article 1113 provides that:

(1) Duress in article 1112 must be of a kind that would affect a reasonable person and put that person in fear of substantial harm to his or her person or property or to those near and dear.

[48] The 1st Defendant says that he signed because he feared Ms Cindy Ernesta would lose her employment. Even taking that evidence at its highest, the alleged pressure concerned possible disciplinary consequences for a bank employee who had authorised transactions which exposed the bank to a substantial unauthorised overdraft. It is the considered view of this Court that this cannot be in any way considered as any form duress on the 1st Defendant though it would no doubt create a certain amount of pressure on the bank employee. This Court does not see any form of threat, promise or inducement being made personally to the 1st Defendant and therefore his excuse that he signed because he feared that the bank employee Ms Cindy Ernesta might lose her employment does not amount to duress and cannot be accepted.

[49] Further, the 1st Defendant's evidence that he signed P8 at La Digue, is contradicted by the evidence of witness Ms Gracey Arrisol who states that the document P8 was signed at Victoria on 14 May 2018 and not in La Digue. The entries in the document P8 itself corroborates her evidence. Be that as it may, the 1st Defendant does not deny he signed the said document and this Court does not accept his contention that he did so under duress as there is no evidence of any threat promise or inducement being made to him personally. This Court is satisfied that he has failed to prove any duress within the meaning of Articles 1112 and 1113. I therefore reject the defence of duress.

[50] Another contention by the 2nd Defendant is that the signing of the Acknowledgement of Debt Agreement by the 1st Defendant shifted liability to him and released her. She relies on Article 1271 of the Civil Code which provides that novation is effected where a new debtor is substituted for the old, who is released by the creditor.

[51] Article 1273 however states that:

(1) Novation is not presumed.

(2) The intention to effect novation must clearly result from the act (acte).

[52] The Plaintiff bank has not at any stage of proceedings substituted the 2nd Defendant by including the 1st Defendant and moving that the 2nd Defendant be discharged. From the very outset of the case the Plaintiff bank has moved for judgment against both the 1st and 2nd Defendants jointly or severally and accordingly sent letters addressed to both partners claiming the said overdraft sum. In accordance with Article 1273 (1), this Court cannot presume that as the 1st Defendant only signed Exhibit P8, the 2nd Defendant should be automatically discharged. There is no express intention by the Plaintiff bank at any stage of proceedings to expressly release the 2nd Defendant from joint and several liability. The bank's conduct in filing and maintaining this action against both Defendants till the end is inconsistent with any express discharge of the 2nd Defendant. There is no merit in this defence.

[53] For all the aforementioned reasons, this Court proceeds to reject the defence of both Defendants. This Court is satisfied that the evidence given by the Plaintiff witnesses is corroborative in nature and no material contradictions exists. The admissions made by the parties, the documentary evidence and bank statements P2 (two entries of 5th September 2017 totalling SCR 358,920.00 and creating an overdraft of 322,850.66) and P9 further corroborates the evidence given by the Plaintiff witnesses and even without the Acknowledgment of Debt Agreement, establishes the case for the Plaintiff on a balance of probabilities. This Court is satisfied that the Plaintiff has proved the existence of the partnership debt, that both Defendants were partners and authorised signatories, and that both are jointly and severally liable to the Plaintiff for the partnership debt in the said sum.

[54] As this Court is satisfied that the Plaintiff has established its claim on a balance of probabilities, this Court gives judgment in favour of the Plaintiff and against the 1st and 2nd Defendants jointly and severally and grants the reliefs as prayed for in the plaint as follows:

a) that both the 1st and 2nd Defendants are jointly and severally liable to pay the sum of SCR 322,850.66 to the Plaintiff together with interest at the rate of 10% accruing from the date the debt was incurred i.e. 05 September 2017 until the date of payment less the sum paid back by the 1st Defendant i.e. SCR 55,000.00.

b) that the 1st and 2nd Defendants shall be liable to pay the Plaintiff's costs.

Signed, dated and delivered at Ile du Port on 21 July 2026.

21-7-2026

M Burhan J

SEAL OF THE SEYCHELLES SUPREME COURT